



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/770,434

02/03/2004

Bob Brennan

BOBR / 04R

3360

26875

7590

09/09/2004

WOOD, HERRON & EVANS, LLP

2700 CAREW TOWER

441 VINE STREET

CINCINNATI, OH 45202

EXAMINER

NINO, ADOLFO

ART UNIT

PAPER NUMBER

2831

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/770,434

Applicant(s)

BRENNAN, BOB

Examiner

Adolfo Nino

Art Unit

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 11 and 13. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

Page 2, lines 1-3, the reference numbers of prior art, fig. 1, do not match the numbers in fig. 1.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2831

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Bruser et al. (US 4,688,969).

Regarding claim 1, Bruser et al. discloses a ground rod (fig. 2) having a first end (by 20 in fig. 1), a shaft portion (32) and a second end (by 20 in fig. 2) said first end having a pointed auger portion (22); the second portion having a tip portion (fig. 2) adapted to mate with an electric rotating powered driver. **Note** that it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re. Hutchison*, 69 USPQ 138.

Regarding claim 2, Bruser et al. disclose the ground rod claimed in claim 1 wherein said second end is faceted (fig. 2).

Regarding claim 3, Bruser et al. disclose the ground rod claimed in claim 1 wherein said second end has a square recess (col. 2, lines 35-37) adapted to receive a standard socket drive. **Note** that it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re. Hutchison*, 69 USPQ 138.

Regarding claim 4, Bruser et al. disclose the ground rod claimed in claim 1 having a second end also adapted to attach to a handle to permit manual insertion and removal of said ground rod. **Note** that it has been held that the recitation that an

Art Unit: 2831

element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re. Hutchison*, 69 USPQ 138.

Regarding claim 5, Bruser et al. disclose the ground rod claimed in claim 1 driven partially into the ground and attached to an electrical system of a building (col. 1, lines 13-17).

Regarding claim 6, Bruser et al. disclose the ground rod claimed in claim 1 attached to an electric threader (col. 1, lines 13-17).

Regarding claim 7, Bruser et al. disclose a temporary ground rod (fig. 2) comprising a first end (by 22 in fig. 1) and a second end (by 20 in fig. 1) connected together by a shaft (32): said first end comprising an auger (22) fixed to said shaft (figs. 1, 2); the second end comprising a head portion (underneath 20) adapted to connect to and be driven by a wrench; and a handle (14) removably attachable (attached by coupler 20) to said head portion. **Note** that it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re. Hutchison*, 69 USPQ 138.

Regarding claim 8, Bruser et al. disclose the ground rod claimed in claim 7 wherein said second end is faceted (fig. 2).

Regarding claim 9, Bruser et al. disclose the ground rod claimed in claim 7 wherein said second end has a rectangular recess adapted to receive a standard drive (col. 2, lines 35-37). **Note** that it has been held that the recitation that an element is

Art Unit: 2831

"adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re. Hutchison*, 69 USPQ 138.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Orsini et al. (US Application 2003/0192713 A1) disclose a grounding electrode. Fowler et al. (US 6,677,517 B2) disclose a lightning system. Kies (US 4,577,053) discloses a ground rod. Farmer (US 4,626,330) discloses an anode. Beggs (US 6,040,522) discloses an electrically grounded land. Naef (US 2,449,313) discloses a ground rod. Matthews (US 2,270,325) discloses a ground rod. Heinrich (US 2,065,184) discloses a ground rod.

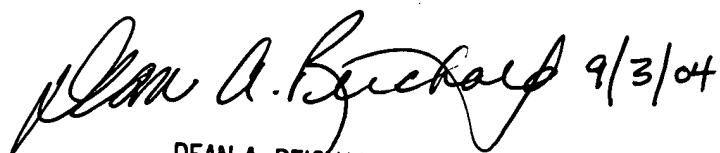
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adolfo Nino whose telephone number is (571) 272-1981. The examiner can normally be reached on M-F (7:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean A Reichard can be reached on (571) 272-2800 ext. 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2831

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AN

A handwritten signature in black ink, appearing to read "Dean A. Reichard", followed by the date "9/3/04".

DEAN A. REICHARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800